

(h) *PHA obligations.* (1) Prepare and disperse the formal offer of sale to the resident council, resident management corporation and resident cooperative of the affected development.

(2) Evaluate proposals received and make the selection based on the considerations set forth in paragraph (b) of this section. Issuance of letters of acceptance and rejection.

(3) Prepare certifications, where appropriate, as discussed in paragraph (i)(3) of this section.

(4) The PHA shall comply with its obligations under § 970.4(a) regarding tenant consultation and provide evidence to HUD that it has met those obligations. The PHA shall not act in an arbitrary manner and shall give full and fair consideration to any qualified resident management corporation, resident council or resident cooperative of the affected development and accept the proposal if it meets the terms of sale.

(i) *PHA application submission requirements for proposed demolition or disposition.* (1) If the proposal from the resident organization is rejected by the PHA, and either there is no appeal by the organization or the appeal has been denied, the PHA shall submit its demolition or disposition application to HUD in accordance with Section 18 of the United States Housing Act of 1937 and part 970 of this chapter. The demolition or disposition application must include complete documentation that the requirements of this section have been met. PHAs must submit written documentation that the resident council, resident management corporation and tenant cooperative of the affected development have been apprised of their opportunity to purchase under this section. This documentation shall include:

(i) A copy of the signed and dated PHA notification letter(s) to each organization informing them of the PHA's intention to submit an application for demolition or disposition, the right to purchase; and

(ii) The responses from each organization.

(2) If the PHA accepts the proposal of the resident organization, the PHA shall submit a disposition application in accordance with Section 18 of the United States Housing Act of 1937 and

part 970 of this chapter, with appropriate justification for a negotiated sale and for sale at less than fair market value, if applicable.

(3) HUD will not process an application for demolition or disposition unless the PHA provides the Department with one of the following:

(i) Where no resident management corporation, resident council or resident cooperative exists in the affected development and the residents of the affected development have not formed a new organization in accordance with paragraph (b) of this section, a certification from either the executive director or the board of commissioners stating that no such organization(s) exists and documentation that a reasonable effort to inform residents of their opportunity to organize has been made; or

(ii) Where a resident management corporation, resident council or resident cooperative exists in the affected development one of the following, either paragraph (i)(3)(ii)(A) or paragraph (i)(3)(ii)(B) of this section:

(A) A board resolution or its equivalent from each resident council, resident management corporation or resident cooperative stating that such organization has received the PHA letter, and that it understands the offer and waives its opportunity to purchase the project, or portion of the project, covered by the demolition or disposition application. The response should clearly state that the resolution was adopted by the entire organization at a formal meeting; or

(B) A certification from the executive director or board of commissioners of the PHA that the thirty (30) day timeframe has expired and no response was received to its offer.

(Approved by the Office of Management and Budget under control number 2577-0075)

[60 FR 3721, Jan. 18, 1995, as amended at 64 FR 50229, Sept. 15, 1999]

#### § 970.14 Reports and records.

(a) After HUD approval of demolition or disposition of all or part of a project, the PHA shall keep the appropriate HUD Field Office informed of significant actions in carrying out the demolition or disposition, including

any significant delays or other problems. When demolition or disposition is completed, the PHA shall submit to the Field Office a report confirming such action, certifying compliance with all applicable requirements of Federal law and regulations and, in the case of disposition, accounting for the proceeds and costs of disposition.

(b) The PHA shall be responsible for keeping records of its HUD-approved demolition or disposition sufficient for audit by HUD to determine the PHA's compliance applicable requirements of Federal law and this part.

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[50 FR 50894, Dec. 13, 1985. Redesignated at 53 FR 30987, Aug. 17, 1988. Redesignated at 60 FR 3721, Jan. 18, 1995]

## PART 971—ASSESSMENT OF THE REASONABLE REVITALIZATION POTENTIAL OF CERTAIN PUBLIC HOUSING REQUIRED BY LAW

Sec.

971.1 Purpose.

971.3 Standards for identifying developments.

971.5 Long-term viability.

971.7 Plan for removal of units from public housing inventories.

971.9 Tenant and local government consultation.

971.11 Hope VI developments.

971.13 HUD enforcement authority.

APPENDIX TO PART 971—METHODOLOGY OF COMPARING COST OF PUBLIC HOUSING WITH COST OF TENANT-BASED ASSISTANCE

AUTHORITY: Pub. L. 104-134; 42 U.S.C. 3535(d).

SOURCE: 62 FR 49576, Sept. 22, 1997, unless otherwise noted.

### § 971.1 Purpose.

Section 202 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub.L. 104-134, approved April 26, 1996) ("OCRA") requires PHAs to identify certain distressed public housing developments that cost more than Section 8 rental assistance and cannot be reasonably revitalized. Households in occupancy that will be affected by the activities will be offered tenant-based or project-based assistance (that can include other public housing units) and will be relocated, to

other decent, safe, sanitary, and affordable housing which is, to the maximum extent practicable, housing of their choice. After residents are relocated, the distressed developments (or affected buildings) for which no reasonable means of revitalization exists will be removed from the public housing inventory.

### § 971.3 Standards for identifying developments.

(a) PHAs shall use the following standards for identifying developments or portions thereof which are subject to section 202's requirement that PHAs develop and carry out plans for the removal over time from the public housing inventory. These standards track section 202(a) of OCRA. The development, or portions thereof, must:

(1) *Be on the same or contiguous sites.* (OCRA Sec. 202(a)(1)). This standard and the standard set forth in paragraph (a)(2) of this section refer to the actual number and location of units, irrespective of HUD development project numbers.

(2) *Total more than 300 dwelling units.* (OCRA Sec. 202(a)(2)).

(3) *Have a vacancy rate of at least ten percent for dwelling units not in funded, on-schedule modernization.* (OCRA Sec. 202(a)(3)). For this determination, PHAs and HUD shall use the data the PHA relied upon for its last Public Housing Management Assessment Program (PHMAP) certification, as reported on the Form HUD-51234 (Report on Occupancy), or more recent data which demonstrates improvement in occupancy rates. Units in the following categories shall not be included in this calculation:

(i) Vacant units in an approved demolition or disposition program;

(ii) Vacant units in which resident property has been abandoned, but only if State law requires the property to be left in the unit for some period of time, and only for the period stated in the law;

(iii) Vacant units that have sustained casualty damage, but only until the insurance claim is adjusted; and

(iv) Units that are occupied by employees of the PHA and units that are utilized for resident services.